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Southeastern Pennsylvania Transportation Authority
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Jolene M. Molitoris, Administrator
Federal Railroad Administration

Gordon J. Linton, Administrator
Federal Transit Administration

U.S. Department of Transportation
Central Docket Management Facility
Room PL-401 Nassif Building
400 Seventh Street, SW
Washington, D.C. 20590

October 29, 1999

Re: Proposed Rail Policy Statement-Shared Use

FRA Docket No. FRA-1999-5685 -29

Dear Administrators Molitoris and Linton:

The Southeastern Pennsylvania Transportation Authority (SEPTA) appreciates the opportunity to provide comments to the FRA and the FTA on the proposed joint statement of agency policy concerning shared use of the general railroad system by conventional railroads and light rail transit systems. As a sponsor and co-sponsor of two Major investment Studies (MIS) and Draft Environmental Impact Statements (DEIS) in southeastern Pennsylvania, we have a significant interest in the expeditious formulation of a clear and practical shared access policy statement. Both the Cross County Metro MIS/DEIS and the Schuylkill Valley Metro MIS/DEIS are nearing completion. A shared use option with freight railroad carriers is fundamental in developing a cost effective and environmentally sound solution to mobility challenges in five regional Counties.

Since the publication of the initial proposed joint statement last Spring, additional clarification and explanation has been requested from the FRA/FTA to help alleviate the confusion as to what the proposed policy states and conflicting comments made at APTA and other public forums. It was our understanding that the additional guidance was to have been released in August 1999.

The proposed policy statement concerning light rail transit operations on the general railroad system focuses on three factors: (1) measurement of safe operating performance; (2) the definition of commuter operations; and (3) the roles and relationship of FRA and FTA as defined. Additional issues critical to SEPTA include the use of traditional and advanced technology, parallel rights-of-way and the requirement that all affected railroads file a waiver petition.

Measurement of Safe Operating Performance

The proposed policy statement discusses physical safety standards for different types of vehicles. The proposed policy also discusses safety considerations with respect to different operating strategies, yet it cites no standards by which to measure the safe execution of various operating strategies in delivering transportation services. Further, the document refers to “the safety typical of conventional rail passenger operations” without any definition of what that means or how it should be measured.

Definition of Commuter Operations

In the proposed policy, ‘commuter’ service is defined as systems that have their primary purpose transporting commuters to and from work within a metropolitan area, but do not devote a substantial portion of their service to moving passengers within an urban area. A major concern is that the overwhelming majority of transit operations of all types operated by SEPTA (bus, trolleybus, streetcar and rapid transit) could be considered to possess ‘commuter’ characteristics according to this sweeping and somewhat vague definition. The use of such a commuter ‘litmus test’ to determine the applicability of FRA rules to a given operation potentially produces results so wide ranging as to give FRA unlimited discretion to pick and choose those facilities over which it will exercise authority.

Roles and Relationship of FRA and FTA

It is our understanding that petitions for approval and waivers of shared use will be reviewed and decided upon by FRA’s Railroad Safety Board. FTA will appoint a non-voting liaison to FRA’s board, and that person will participate in the board’s consideration of all such decisions. The overall intent of the current proposed policy appears to be for the FRA to function as decision-maker, but while benefiting from FTA insights in this role. Establishing these roles and this relationship between the two agencies, even with the best of intentions to achieve laudable safety goals that both FRA and FTA fully support, appears to ignore the fact that these two entities have different perspectives on non-safety related interests. The best decision making between two parties with diverse interests happens when both parties share equal authority.

Use of Traditional and Advanced Technology

The policy appears to state that the only acceptable means of separation is by time of day. SEPTA believes that the FRA and FTA should seriously explore ways in which separation can be accomplished or enforced with combinations of track switches, interlocking signals, advanced control technology and other technical safeguards, some of which are used today in other parts of the world.

Parallel Rights-of-Way

The FRA/FTA Shared Use proposed policy refers to shared use of track, not shared use of right of way. For example, there currently exists a single railroad/light rail grade crossing on the SEPTA system, where the Route 11 trolley crosses the tracks of CSX at 6th and Main Streets in Darby Borough. As indicated in the proposed policy, FRA’s safety rules cover the point of connection. The currently proposed

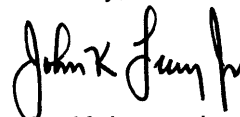
Locally Preferred Alternative for the Cross County Corridor requires eight such crossings along a facility that has a parallel right of way but separate tracks. The only shared use is on a short freight spur in Morrisville, but this could possibly be eliminated. Pending elimination of the small amount of shared use track, the policy is unclear about the limits of FRA jurisdiction in such an application, beyond the points of connection at the eight grade crossings. We believe that it is unnecessary for FRA to assert jurisdiction over light rail operations running parallel to freight service because of existing state safety oversight of transit. In addition, the policy statement does not address the issue of physical barrier or distance separation between shared use trackage.

Railroad Participation in the Waiver Process

SEPTA is concerned about the requirement that all affected railroads file a waiver petition, especially with respect to the freight railroad's inclinations to do so and whether this will be required.

SEPTA is concerned about the degree to which policies and standards will be prescriptive and specific, rather than broad and flexible. At this point in the process, SEPTA would favor an approach that is inclusive and non-prescriptive, and can account for individual conditions at hand on a case-by-case basis. We are aware that there are challenges in establishing a policy statement with resulting guiding regulations that adequately address all nationally shared access issues, there are two basic and practical issues that the FRA/FTA policy statement should address. First, are the primary concern for safety and the ability for light rail and freight operations to co-exist on the same corridor. And second, is the practical business question of fostering a proper business environment that will enable transit and freight operators to settle outstanding issues so that the demands of passenger and freight customers can be met.

Sincerely,

A handwritten signature in black ink, appearing to read "John K. Leary Jr.", with a stylized flourish at the end.

John K. Leary Jr.
General Manager